



# **San Diego City Attorney**

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## **NEWS RELEASE**

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### **NINTH CIRCUIT COURT OF APPEALS THROWS OUT LOWER COURT'S ORDER REQUIRING CITY TO REMOVE MT. SOLEDAD CROSS OR PAY FINES**

**San Diego, CA:** The United States Court of Appeals for the Ninth Circuit today vacated a lower court's order of May 3, 2006, which called for the City to remove the Mt. Soledad cross within 90 days or face fines of \$5,000 per day if the cross remained on City property. In today's ruling, the Ninth Circuit held that federal legislation enacted on August 14, 2006, which transferred the City's interest in the Veteran's War Memorial to the federal government, made moot the lower court's order because it is no longer enforceable.

"It was a logical decision by the Ninth Circuit and represents yet another litigation victory surrounding the Mt. Soledad Veterans War Memorial," remarked City Attorney Michael Aguirre.

The order to remove the cross was issued by the United States District Court when it granted Plaintiff Philip Paulson's motion to enforce a 1991 injunction forbidding the presence of the cross on City property.

On May 23, 2006, the San Diego City Council voted to appeal the court ruling and pursue a stay of the sanctions pending appeal. In July 2006, the San Diego City Attorney convinced United States Supreme Court Justice Anthony M. Kennedy to suspend the district court's order to remove the cross by August 1, 2006, so that the appeal could proceed without the threat of fines for not removing the cross.

As a result of today's ruling, the City's appeal has been dismissed. However, the question of whether, and to what extent, plaintiff may be entitled to attorneys' fees has been sent back to district court.

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